

COUDERT BROTHERS LLP

ATTORNEYS AT LAW

1627 I STREET, N.W.
WASHINGTON, D.C. 20006-4007
TEL: (202) 775-5100
FAX: (202) 775-1168
WWW.COUDERT.COM
EMAIL: GURLEYJ@COUDERT.COM

January 15, 2002

NORTH AMERICA

DENVER, LOS ANGELES, MONTREAL,
NEW YORK, PALO ALTO, SAN FRANCISCO,
SAN JOSE, WASHINGTON

EUROPE

ANTWERP, BERLIN, BRUSSELS, FRANKFURT,
GHENT, LONDON, MILAN, MOSCOW, MUNICH,
PARIS, ST. PETERSBURG

ASIA/PACIFIC

ALMATY, BANGKOK, BEIJING, HONG KONG,
JAKARTA, SINGAPORE, SYDNEY, TOKYO

ASSOCIATED OFFICES

BUDAPEST, MEXICO CITY, PRAGUE, ROME,
SHANGHAI, STOCKHOLM

Via Electronic Transmission to: FR0001@ustr.gov

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

PUBLIC DOCUMENT

**RE: Public Comments on Potential Action Under Section 201 of the Trade Act of 1974
With Regard to Imports of Certain Steel: *Response to Comments on What Action the
President Should Take Under Section 203 of the Trade Act of 1974, as Amended, With
Regard to Imports of: (1) Carbon and Alloy Steel Forged Fittings (of Product Group
22); and Stainless Steel Forged Fittings (of Product Group 33)***

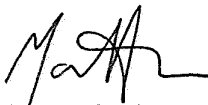

Dear Sir/Madam:

In Federal Register notices dated October 26, 2001, November 29, 2001, and December 28, 2001, (see 66 Fed. Reg. 54321, 66 Fed. Reg. 59599, and 66 Fed. Reg. 67349, respectively) the Office of the United States Trade Representative, Trade Policy Staff Committee, requested comments on potential action under Section 203(a) of the Trade Act of 1974 with regard to imports of certain steel. On January 4, 2002, the law firm of Schagrin Associates, on behalf of The Committee on Pipe and Tube Imports (hereinafter "the Schagrin Brief"), filed comments on the remedy recommendations put forth by the U.S. International Trade Commission ("Commission"). On behalf of the members of the European Forged Fittings Manufacturers

Ms. Gloria Blue
January 15, 2002
Page 2

Association: I.M.L. Industria Meccanica Ligure; OMC Raccordi s.r.l.; M.E.G.A. S.p.A.;
Delcorte S.A.; and ULMA Forja, S. Coop., and on behalf of the members of the European
Stainless Steel Forged Fittings Manufacturers Association: I.M.L. Industria Meccanica Ligure;
OMC Raccordi s.r.l.; M.E.G.A. S.p.A.; and Delcorte S.A., we hereby reply to certain comments
made in the Schagrin Brief.

Respectfully submitted,


John M. Gurley

Matthew J. McConkey

Enclosure (1)

PUBLIC DOCUMENT

**BEFORE THE
UNITED STATES TRADE REPRESENTATIVE
TRADE POLICY STAFF COMMITTEE**

In the Matter of)
)
)

Steel –)
)
)

Product Groups 22 and 33– Carbon and Alloy Steel)
Forged Fittings, and Stainless Steel Forged Fittings)
_____)

RESPONSE TO SCHAGRIN BRIEF ON U.S. INTERNATIONAL TRADE

COMMISSION REMEDY RECOMMENDATIONS

ON BEHALF OF:

THE EUROPEAN FORGED FITTINGS MANUFACTURERS ASSOCIATION AND
THE EUROPEAN STAINLESS STEEL FORGED FITTINGS MANUFACTURERS
ASSOCIATION WITH RESPECT TO CARBON AND ALLOY STEEL FORGED
FITTINGS OF PRODUCT GROUP 22, AND STAINLESS STEEL FORGED FITTINGS
OF PRODUCT GROUP 33

John M. Gurley, Esq.
Matthew J. McConkey, Esq.
COUDERT BROTHERS LLP
1627 I Street, N.W.
Washington, D.C. 20006
(202) 775-5100

January 15, 2002

TABLE OF CONTENTS

	Page
I. EXECUTIVE SUMMARY	1
II. SUBJECT PRODUCTS	1
III. DATA COLLECTED BY THE COMMISSION AND REFERRED TO BY THE SCHAGRIN BRIEF DOES NOT GENERALLY ADDRESS FORGED FITTINGS	2
IV. CONCLUSION	3

RESPONSE TO COMMENTS ON REMEDY RECOMMENDATIONS

I. EXECUTIVE SUMMARY

On behalf of the members of the European Forged Fittings Manufacturers Association: I.M.L. Industria Meccanica Ligure; OMC Raccordi s.r.l.; M.E.G.A. S.p.A.; Delcorte S.A.; and ULMA Forja, S. Coop. (collectively referred to as the “EFFMA”), and on behalf of the members of the European Stainless Steel Forged Fittings Manufacturers Association: I.M.L. Industria Meccanica Ligure; OMC Raccordi s.r.l.; M.E.G.A. S.p.A.; and Delcorte S.A. (the “ESSFFMA”), we hereby reply to certain comments made in the Schagrín Brief.

Contrary to the general assumption that underpins the entire Schagrín Brief, the data relied upon by the Commission in developing its remedy recommendation did not specifically address forged fittings, but instead focused on butt-weld fittings (and to a lesser extent flanges) – completely separate and distinct products. As such, the remedy recommendations submitted by the Commission are without a basis under the law.

Therefore, the EFFMA and the ESSFFMA continue to believe not only that the “remedy” recommendations made by the Commission with respect to forged fittings are too onerous, but we also believe that the Trade Policy Staff Committee (“TPSC”) should recommend the exclusion of forged fittings from any remedy in this Section 201 steel investigation.

II. SUBJECT PRODUCTS

Prior to addressing various of the issues raised in the Schagrín Brief, we believe that it is important to review the subject products. Again, we are addressing carbon and alloy steel forged fittings and stainless steel forged fittings (collectively, “Forged Fittings”).

Carbon and alloy steel forged fittings are classified under HTS 7307.92, while carbon and alloy steel flanges (both finished and simply in a raw forged state) and butt-weld fittings, are classified under completely separate HTS subheadings. Recall that butt-weld fittings are not forged, they are produced from pipe.¹

Stainless steel forged fittings are classified under HTS 7307.22, while stainless steel flanges (both finished and simply in a raw forged state) and butt-weld fittings, are classified under completely separate HTS subheadings.

There does not appear to be much, if any, disagreement amongst the interested parties in this investigation that flanges, butt-weld fittings, and forged fittings, are three separate products,

¹ In various filings in this investigation, comments have been made with respect to so-called “butt-weld fittings forgings.” See filings by Silbo Industries, Inc. and Welbend Corp. This is an incorrect use of the word “forging.” Butt-weld fittings are not forged, they are produced from pipe. What is presumably meant by the phrase “butt-weld fittings forgings” is that the butt-weld fittings are not 100% finished at the time of importation; they must be further machined.

made by different producers, made by different processes, and with separate and distinct end uses.² In fact, on page 4 of the Schagrín Brief, it is stated:

The product group of carbon fittings and flanges consists of several distinct types of products. Carbon steel flanges, forged pipe fittings, and butt-weld pipe fittings all fall within this product group. Producers of these carbon steel fittings and flange products, however, generally only produce products in one distinct segment of this group. That is, producers tend to only manufacture flanges, pipe fittings, or butt-weld pipe fittings, with no overlap among product lines due to significant manufacturing differences.

Fittings and flanges are used in pipe systems to connect the bores of two or more pipes together, or for connecting a pipe to another apparatus, or for closing the pipe aperture. **The three basic groupings of products in this category include flanges, butt-weld fittings, and forged fittings.**

(Emphasis added.) Forged Fittings cannot be used in lieu of flanges or butt-weld fittings and vice versa. Attached hereto are sever pictures that show the different uses of these products.

In sum, flanges, butt-weld fittings, and forged fittings (whether from carbon & alloy steel or stainless steel), are three separate products, and should not be confused.

III. DATA COLLECTED BY THE COMMISSION AND REFERRED TO BY THE SCHAGRIN BRIEF DOES NOT GENERALLY ADDRESS FORGED FITTINGS

The basic premise of the Schagrín Brief is that the “evidence contained in the record demonstrates the serious injury that increasing volumes of imports caused to the domestic industry.” See Schagrín Brief, at 5. For example, Table 2 appended to the Schagrín Brief purports to show an increase in imports for flanges, butt-weld fittings, and Forged Fittings. The Schagrín Brief continues for several pages, with narrative that discusses the idling of production facilities, operating losses, etc.

Throughout this investigation, this product line of Forged Fittings has been relatively ignored. In fact, when collecting data on “fittings,” the data has been for butt-weld (i.e., tubular) fittings. It has not addressed fittings manufactured by a forging process (i.e. Forged Fittings). The record in this investigation contains no discernible separate pricing data for Forged Fittings. As noted in the European Flange Producers prehearing remedy brief on page 6: “all consideration of pricing trends and evidence of underselling was derived from data for butt-weld pipe fittings only” (emphasis in original). The Commission itself all but admitted this when it addressed flanges and fittings in the section of its December 2001 report entitled “Carbon and Alloy Tubular Products.” For example, on page TUBULAR-1, the Commission recognized that flanges “are fabricated from forgings, which are produced using a casting process, and generally finished into flanges...” However, there is no such reference to the manufacturing process for forged fittings, and in fact, the Commission only address whether the fittings are seamless or

² It is important for the TPSC to keep in mind that the subject forged fittings should not be confused with the “forgings” issue being addressed with respect to flanges.

welded (i.e., from tubular products). Therefore, the Commission's report, on its face, does not specifically address injury to the domestic Forged Fittings industry. Therefore, no remedy is, in fact, appropriate. If it is shown that there is no existing or threatened serious injury by reason of a particular steel product, then there should be no remedy against that particular steel product.

IV. CONCLUSION

In sum, in imposing a remedy, Section 201 demands, in principle if not in letter, that the remedy be formulated as closely as possible to the U.S. industry allegedly being injured. With scant evidence on the record that the Forged Fittings caused any injury to the U.S. Forged Fittings industry, we submit that, contrary to the Schagrin Brief, it would be improper to impose a remedy on Forged Fittings, especially when the Commission's findings are with respect to only one particular item in a large family of products – butt-weld fittings.³ It is well known in the industry that the major U.S. producer of Forged Fittings – Bonney Forge⁴ – is opposed to this 201 investigation. Likewise, Westbrook Manufacturing opposes relief.⁵ Were Forged Fittings to be a separate category, it is clear that over 50% of the U.S. industry opposes relief. Under such circumstances, contrary to the Schagrin Brief, any relief would be unfair.

As discussed in detail with the TPSC during our meeting on January 11, 2002, with respect to EFFMA's and ESSFFMA's exclusion requests, enforcing an exclusion for these products would be relatively simple. For carbon and alloy steel forged fittings it is easy to determine that the item is produced to ASTM A105N. For stainless steel forged fittings, Approved Manufacturer's Lists can serve as the basis.

Respectfully submitted,

Coudert Brothers LLP

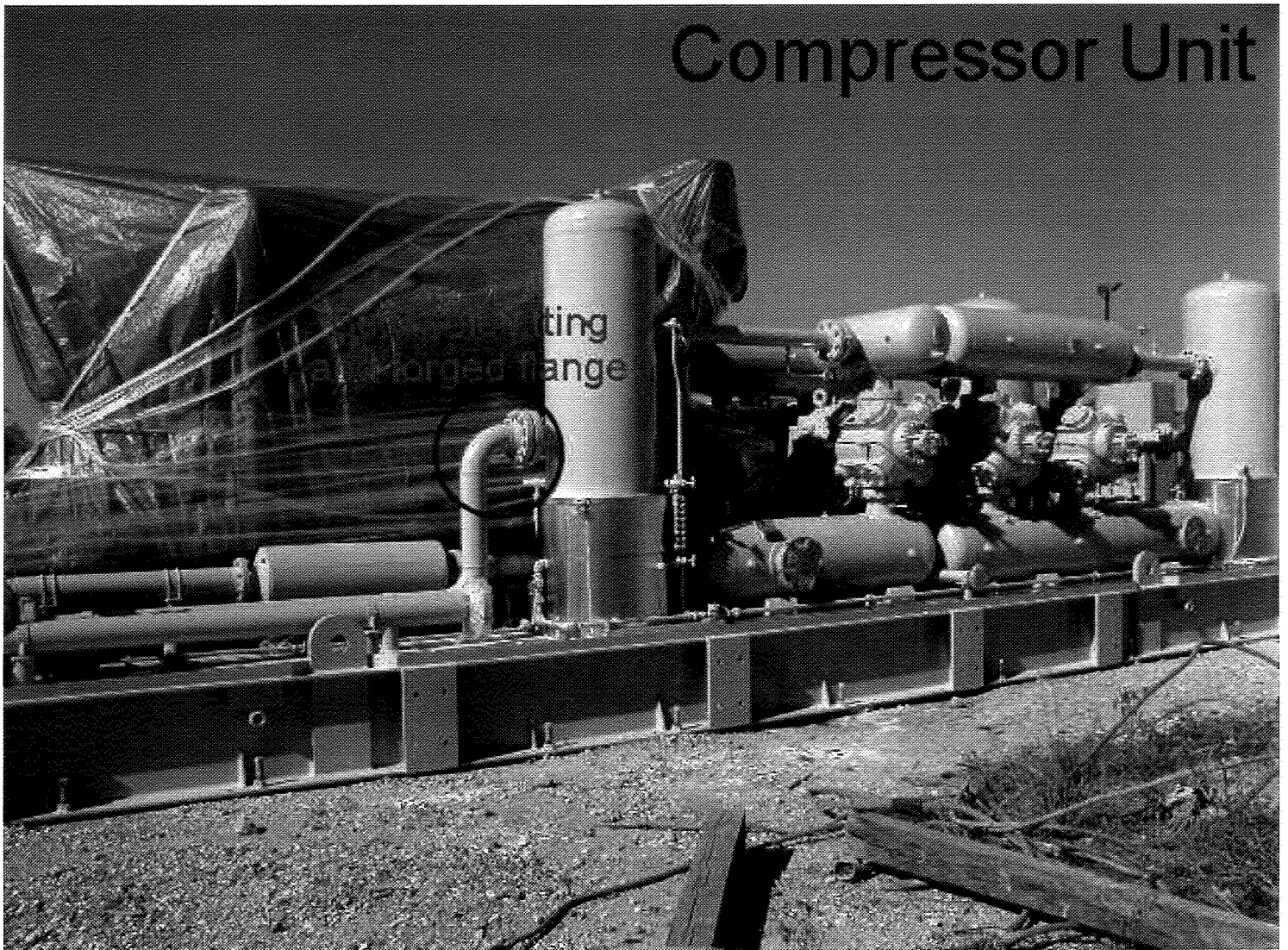
Attachments (7)

³ Additionally, with respect to stainless steel fittings, three of the Commissioners voted "no injury."

⁴ See paragraph 11 of the Westbrook affidavit, at Exhibit 3 of EFFMA's November 3, 2001, exclusion request.

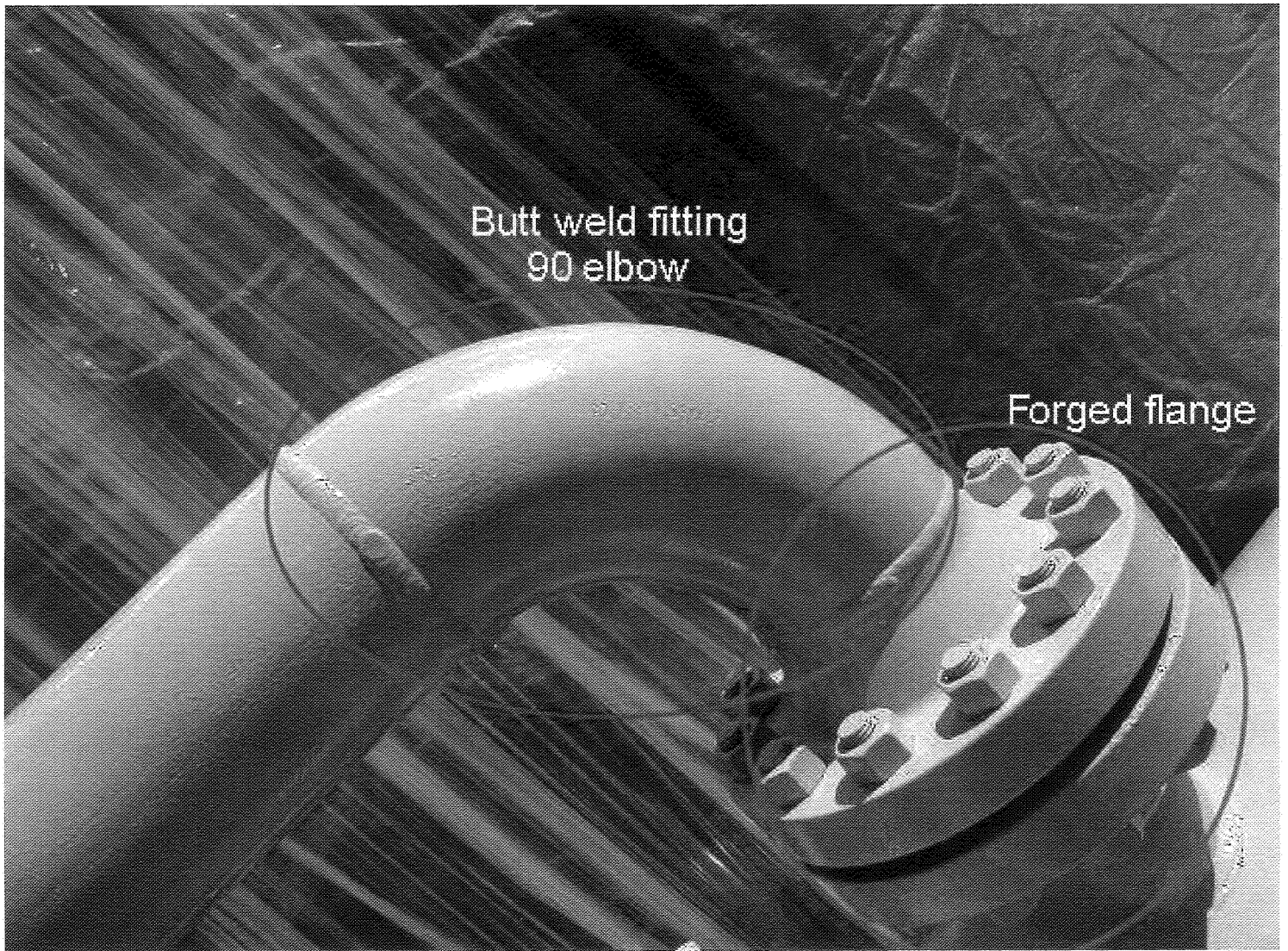
⁵ See Id., at paragraph 12.

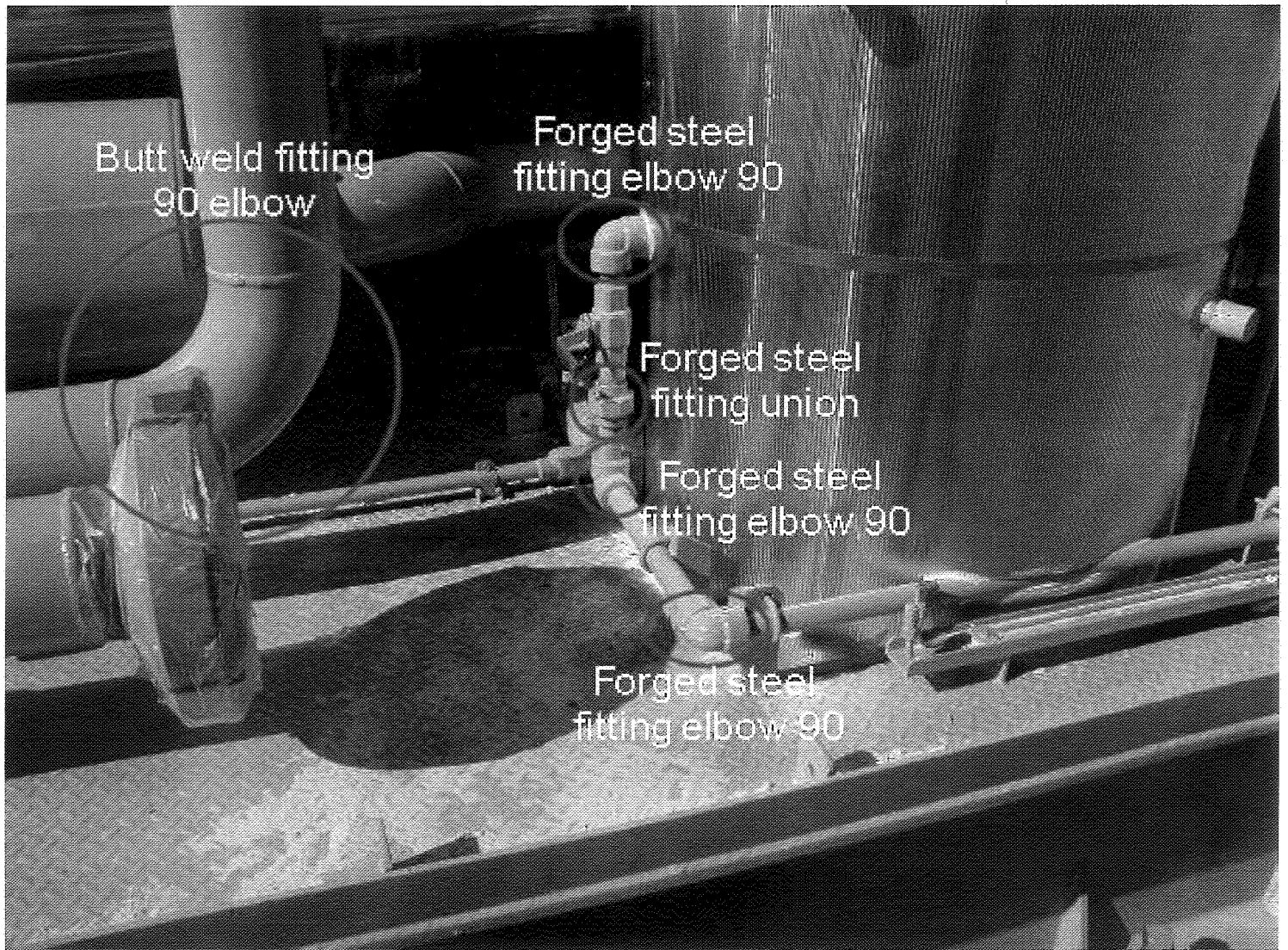
Compressor Unit



Butt weld fitting
90 elbow

Forged flange





Butt weld fitting
90 elbow

Forged steel
fitting elbow 90

Forged steel
fitting union

Forged steel
fitting elbow 90

Forged steel
fitting elbow 90